

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MANVIR PAWAR, et al.,
Plaintiffs,

v.

RUBAB LUTHRA,
Defendant.

Case No. [17-cv-04586-JSC](#)

**PRETRIAL ORDER PURSUANT TO
PARTIES' STIPULATION TO
GENERAL ORDER 64**

Following the Further Case Management Conference held on April 19, 2018, and pursuant to the parties' stipulation to General Order 64 as modified (Dkt. No. 19), IT IS ORDERED THAT:

I. DISCOVERY

Unless otherwise ordered by the Court or by agreement of the parties, discovery shall be limited to ten (10) interrogatories per side, ten (10) document requests, ten (10) requests for admission, and fifteen (15) hours of depositions, per side. The parties may agree or the Court may order, that the time for response to written discovery be shortened. Deposition time limits are inclusive of fact witnesses and expert witnesses. The discovery cut-off is **July 19, 2018**.

II. TRIAL DATE

A. Jury trial will begin on **October 3, 2018, at 8:30 a.m.**, in Courtroom F, 15th Floor, U.S. District Court, 450 Golden Gate, San Francisco, California.

B. The Court is expecting the length of the trial to not exceed 4 court days.

C. Jury trial will be before six jurors and may proceed before a five-person jury if a juror is unable to serve through conclusion of trial and deliberations. The Court shall conduct all voir dire and shall determine time limits for opening statements and closing argument. Each side

1 shall have six hours to present evidence, not including time for opening statement and time for
2 closing argument. In multi-party trials, plaintiffs shall divide the three hours among themselves,
3 and defendants shall divide the three hours among themselves. If the parties cannot agree to a
4 division of trial time, the judge shall order a division.

5 D. No party shall call more than one expert witness to testify, unless permitted by the
6 Court or by agreement of the parties.

7 E. Pursuant to the parties' stipulation (Dkt. No. 19), the Court may order equitable
8 relief consistent with and within the options agreed to by the parties.

9 **III. PRETRIAL CONFERENCE**

10 A Final Pretrial Conference shall be held on **September 13, 2018, at 2:00 p.m.**, in
11 Courtroom F, 15th Floor. Lead trial counsel for each party shall attend.

12 A. At least seven days prior to date of the Final Pretrial Conference the parties shall do
13 the following:

14 1. In lieu of preparing a Joint Pretrial Conference Statement, the parties shall
15 meet and confer in person, and then prepare and file a jointly signed Proposed Final Pretrial Order
16 that contains: (a) a brief description of the substance of claims and defenses which remain to be
17 decided; (b) a statement of all relief sought; (c) all stipulated facts; (d) a joint exhibit list in
18 numerical order, including a brief description of the exhibit and Bates numbers, a blank column
19 for when it will be offered into evidence, a blank column for when it may be received into
20 evidence, and a blank column for any limitations on its use; and (e) each party's separate witness
21 list for its case-in-chief witnesses (including those appearing by deposition), including, for all such
22 witnesses (other than party plaintiffs or defendants), a short statement of the substance of his/her
23 testimony and, separately, what, if any, non-cumulative testimony the witness will offer. For each
24 witness, state an hour/minute time estimate for the direct examination (only). Items (d) and (e)
25 should be submitted as appendices to the proposed order. The proposed order should also state
26 which issues, if any, are for the Court to decide, rather than the jury.

27 2. File a joint set of proposed instructions on substantive issues of law
28 arranged in a logical sequence. If undisputed, an instruction shall be identified as "Stipulated

1 Instruction No. ____ Re _____,” with the blanks filled in as appropriate. If disputed, each
2 version of the instruction shall be inserted together, back to back, in their logical place in the
3 overall sequence. Each such disputed instruction shall be identified as, for example, “Disputed
4 Instruction No. ____ Re _____ Offered by _____,” with the blanks filled
5 in as appropriate. All disputed versions of the same basic instruction shall bear the same number.
6 Any modifications to a form instruction must be plainly identified. If a party does not have a
7 counter version and simply contends that no such instruction in any version should be given, then
8 that party should so state (and explain why) on a separate page inserted in lieu of an alternate
9 version. With respect to form preliminary instructions, general instructions, or concluding
10 instructions, please simply cite to the numbers of the requested instructions in the current edition
11 of the Ninth Circuit Model Jury Instructions. Other than citing the numbers, the parties shall not
12 include preliminary, general, or concluding instructions in the packet.

13 3. File a separate memorandum of law in support of each party’s disputed
14 instructions, if any, organized by instruction number.

15 4. File a joint set of proposed voir dire questions supplemented as necessary
16 by separate requests.

17 5. File proposed verdict forms, joint or separate.

18 6. File and serve any objections to exhibits.

19 7. File a joint simplified Statement of the Case to be read to the jury during
20 voir dire as part of the proposed jury instructions. Unless the case is extremely complex, this
21 statement should not exceed one page.

22 B. No pretrial motion shall be filed without leave of Court, which shall be sought by a
23 letter not to exceed one page. If leave is granted, the motion shall be in letter form, filed with the
24 clerk, unless otherwise ordered. The response to the motion shall be by letter filed with the clerk
25 not later than seven calendar days after receipt of the motion.

26 Unless otherwise permitted, no letter shall exceed three pages. A letter reply, not to exceed
27 one page may be filed within three days after receipt of opposition. The Court may decide the
28 motion without a hearing. If the Court finds that a hearing is necessary, it may establish a briefing

1 schedule and order further briefing. Pendency of a dispositive motion shall not stay any other
2 proceedings.

3 C. Hard-copy courtesy copies of the above documents shall be delivered by NOON
4 the day after filing. The Joint Proposed Final Pretrial Order, jury instructions, and verdict form
5 shall be submitted via e-mail as attachments to JSCpo@cand.uscourts.gov. The Court requests that
6 all hard-copy submissions be three-hole-punched.

7 **IV. PRETRIAL ARRANGEMENTS**

8 A. Should a daily transcript and/or real-time reporting be desired, the parties shall
9 make arrangements with Rick Duvall, Supervisor of the Court Reporting Services, at
10 (415) 522-2079, at least ten (10) calendar days prior to the trial date.

11 B. During trial, counsel may wish to use overhead projectors, laser-disk/computer
12 graphics, poster blow-ups, models, or specimens of devices. Equipment should be shared by all
13 counsel to the maximum extent possible. The Court provides no equipment other than an easel.
14 The United States Marshal requires a court order to allow equipment into the courthouse. For
15 electronic equipment, parties should be prepared to maintain the equipment or have a technician
16 handy at all times. The parties shall tape extension cords to the carpet for safety. The parties may
17 work with the deputy clerk, Ada Means (415-522-2015), on all courtroom-layout issues.

18 **V. TRIAL LOGISTICS**

19 **SCHEDULING**

20 Trial will be conducted from 8:30 a.m. to 2:30 or 3:00 p.m., depending on the availability
21 of witnesses, Monday through Friday. Counsel must arrive by 8:15 a.m., or earlier as needed, for
22 any matters to be heard out of the presence of the jury. The jury will be called at 8:30 a.m.

23 **THE JURY**

24 In civil cases, there are no alternate jurors and the jury is selected as follows:
25 Eighteen to twenty jurors are called to fill the jury box and the row in front of the bar, and are
26 given numbers (1 through 20). The remaining potential jurors will be seated in the public benches.
27 Hardship excuses will usually be considered at this point. The Court will then have each juror
28 orally answer a set of written questions (attached to this Order as Exhibit A) and will itself ask

1 questions of those in the box and in the front of the bar. Challenges for cause will then be
2 addressed out of the presence of the potential jurors. The Court will consider whether to fill in the
3 seats of the stricken jurors. If so, questions will be asked of the additional jurors and cause
4 motions as to them will be considered. After a short recess, each side may exercise its allotment of
5 peremptory challenges out of the presence of the potential jurors. The six surviving the challenge
6 process with the lowest numbers become the final jury. For example, if the plaintiff strikes 1, 5,
7 and 7 and the defendant strikes 2, 4, and 9, then 3, 6, 8, 10, 11, 12, 13, and 14 become the final
8 jury. Once the jury selection is completed, the jurors' names will be read again and they will be
9 seated in the jury box and sworn. The Court may alter this procedure in its discretion and after
10 consultation with the parties.

11 **WITNESSES**

12 At the close of each trial day, all counsel shall exchange a list of witnesses for the
13 next two full court days and the exhibits that will be used during direct examination (other than
14 for impeachment of an adverse witness). Within 24 hours of such notice, all other counsel shall
15 provide any objections to such exhibits and shall provide a list of all exhibits to be used with the
16 same witness on cross-examination (other than for impeachment). The first notice shall be
17 exchanged prior to the first day of trial. All such notices shall be provided in writing.

18 **EXHIBITS**

19 A. Prior to the Final Pretrial Conference, counsel must meet and confer in person to
20 consider all exhibit numbers and objections and to eliminate duplicate exhibits and confusion over
21 the precise exhibit.

22 B. Use numbers only, not letters, for exhibits, preferably the same numbers as were
23 used in depositions. Blocks of numbers should be assigned to fit the need of the case (e.g.,
24 Plaintiff has 1 to 100, Defendant A has 101 to 200, Defendant B has 201 to 300, etc.). A single
25 exhibit should be marked only once. If the plaintiff has marked an exhibit, then the defendant
26 should not re-mark the exact document with another number. Different versions of the same
27 document, e.g., a copy with additional handwriting, must be treated as different exhibits with
28 different numbers. To avoid any party claiming "ownership" of an exhibit, all exhibits shall be

1 marked and referred to as “Trial Exhibit No. _____,” not as “Plaintiff’s Exhibit” or “Defendant’s
2 Exhibit.”

3 C. The exhibit tag shall be in the following form:

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TRIAL EXHIBIT 100

Case No. _____

Date Entered _____

By _____
Deputy Clerk

Counsel preferably will make the tag up in a color that will stand out (yet still allow for photocopying), but that is not essential. Place the tag on or near the lower right-hand corner or, if a photograph, on the back. Counsel should fill in the tag but leave the last two spaces blank. The parties must jointly prepare a single set of all trial exhibits that will be the official record set to be used with the witnesses and on appeal. Each exhibit must be tagged, three-hole-punched, separated with a label divider identifying the exhibit number, and placed in 3-ring binders. Spine labels should indicate the numbers of the exhibits that are in the binders. Each set of exhibit binders should be marked as “Original.” Deposit the exhibits with the deputy clerk seven (7) days before the Pretrial Conference.

D. Counsel must consult with each other and with the deputy clerk at the end of each trial day and compare notes as to which exhibits are in evidence and any limitations thereon. If there are any differences, counsel should bring them promptly to the Court’s attention.

E. In addition to the official record exhibits, three sets of bench binders containing copies of the exhibits must be provided to the Court seven (7) days before the Pretrial Conference, one should be marked as “Chambers Copies”, and the other two as “Clerk’s Copies.” Each exhibit must be separated with a label divider identifying the exhibit number. (An exhibit tag is unnecessary for the bench set.) Spine labels should indicate the numbers of the exhibits that are in

1 the binders.

2 F. Before the closing arguments, counsel must confer with the deputy clerk to make
3 sure the exhibits in evidence are in good order.

4 G. Exhibit notebooks for the jury will not be permitted without prior permission from
5 the Court. Publication must be by poster blow-up, overhead projection, or such other method as is
6 allowed in the circumstances. It is permissible to highlight, circle or underscore in the
7 enlargements as long as it is clear that it was not on the original.

8 **CHARGING CONFERENCE**

9 As the trial progresses and the evidence is heard, the Court will fashion a comprehensive
10 set of jury instructions to cover all issues actually being tried. Prior to the close of the evidence,
11 the Court will provide a draft final charge to the parties. After a reasonable period for review, one
12 or more charging conferences will be held at which each party may object to any passage, ask for
13 modifications, or ask for additions. Any instruction request must be renewed specifically at the
14 conference or it will be deemed waived, whether or not it was requested prior to trial. If, however,
15 a party still wishes to request an omitted instruction after reviewing the Court's draft, then it must
16 affirmatively re-request it at the charging conference in order to give the Court a fair opportunity
17 to correct any error. Otherwise, as stated, the request will be deemed abandoned or waived.

18 **VI. POST TRIAL MOTIONS**

19 A. Post-trial motions shall be limited to determination of costs and attorney's fees,
20 correcting a judgment for clerical error, conforming the verdict to the agreement, enforcement of
21 judgment and motions for a new trial.

22 B. Within ten (10) court days after notice of entry of a jury verdict, a party may file
23 with the clerk and serve on each adverse party a notice of intention to move for a new trial on any
24 of the grounds specified in section 13(c) of these procedures. The notice shall be deemed to be a
25 motion for a new trial.

26 C. Grounds for motions for a new trial shall be limited to: (1) judicial misconduct that
27 materially affected the substantial rights of a party; (2) misconduct of the jury; (3) corruption,
28 fraud, or other undue means employed in the proceedings of the court or jury.

VII. APPEAL

Before filing an appeal, a party shall make a motion for a new trial pursuant to the Post Trial Motions section of this Order. If the motion for a new trial is denied, the party may appeal the judgment and seek a new trial only on grounds specified in subsection C of the Post Trial Motions section. All other grounds for appeal shall be waived and are not permitted, unless the parties agree otherwise.

IT IS SO ORDERED.

Dated: April 20, 2018



JACQUELINE SCOTT CORLEY
United States Magistrate Judge

EXHIBIT A

BACKGROUND

HAVE EACH OF THE 20 PROSPECTIVE JURORS ANSWER ALOUD THE GENERAL BACKGROUND QUESTIONS ON THE SHEET THAT HAS BEEN HANDED OUT.

1. Please state your name:
2. Please state the city in which you live:
 - a. How long have you lived there?
 - b. Where else have you lived in the past 5 years?
3. What is your current occupation?
 - a. How long have you been so employed?
 - b. What are your previous occupations, if any?
 - c. Have you or any member of your family been employed by a law firm?
4. Please give us the following information about your family:
 - a. Are you married?
 1. If so, what is your spouse's current occupation and by whom is your spouse employed?
 - b. Do you have any children?

If so:

 1. How many?
 2. What ages?
 3. What are their occupations, if any?
5. Are there any other adults living in your household?
 - a. If so, how are they related to you, and what is their age and occupation?